

Attachment-6:

EIR Revision Letter RV2, dated November 12, 2013

EIR REVISION LETTER RV2

TO: County Planning Commission

FROM: Nicole Lieu, Planner
Planning and Development, Development Review Division

DATE: November 12, 2013

RE: Revisions to 09EIR-00000-00003, the proposed Final EIR for the Paradiso Del Mare Ocean and Inland Estates (Case Nos.: 06CDH-00000-00038 and 06CDH-00000-00039, 07CUP-00000-00065, 09CDP-00000-00045, 10CUP-00000-00039, 10CDP-00000-00094) to make clarifications in the FEIR and to reflect revisions proposed subsequent to completion of the proposed Final EIR and prior to decision-maker action (including potential certification of the FEIR).

I. REVISED PROJECT DESCRIPTION

The project description for the proposed project has been revised to reflect minor project changes or to provide clarification of the project proposal. These changes were requested by the applicant or proposed by the applicant in response to questions/concerns raised by the County Planning Commission or staff. In summary, those changes are as follows:

- Clarification that no buildings, structures, or hardscape are permitted within the proposed agricultural envelopes;
- Specification that only organic and biodegradable fertilizers and pesticides/herbicides shall be used on-site;
- Clarification of the proposed offers to dedicate (OTD) easements for both vertical and lateral public access and recreation facilities;
- Confirmation that the applicant will partner with the County of Santa Barbara to negotiate the approval of the public easement with UPRR and the PUC across the UPRR tracks; and
- Revision to indicate that the project will include an approximately 117.3 acre Open Space or Conservation Easement instead of the previously proposed 91 acre Open Space or Conservation Easement.

The proposed revisions will not result in any increase in impacts analyzed under the Final EIR and EIR Revision Letter RV1, dated March 19, 2013. Expansion of the Open Space or Conservation area will provide additional long-term protection of biological resources,

as will limitations on construction activities allowed within agricultural envelopes and limits on use of fertilizers and pesticides/herbicides.

- 1. Proj Des-01 Project Description.*** *This project is based upon and limited to compliance with the project description, the hearing exhibits ~~marked dated March 20, 2013 and November 20, 2013,~~ and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:*

Ocean and Inland Estates

The proposed Ocean Estate residence would be 5,806 (gross) square feet in size, with an attached 1,421 square foot garage/mechanical space, a detached 800 square foot guesthouse with attached 651 square foot garage, and a pool. Future structural development and earth disturbance associated with the proposed Ocean Estate would be limited to a 1.9-acre development envelope. The proposed Ocean Estate would also include designation of a 1.7-acre envelope which would allow agricultural activities such as orchards, row crops, and horse/livestock keeping. Except for fencing and utilities, no buildings, structures, or hardscape is permitted within the agricultural envelope. The maximum height of the proposed residence and garage is 20 feet and the maximum height of the proposed guest house and attached garage is 21 feet.

The proposed Inland Estate residence would be 7,326 (gross) square feet in size with an attached 1,837 square foot basement and garage/mechanical space, a detached 800 square foot guesthouse and a pool. Future structural development and earth disturbance associated with the proposed Inland Estate would be limited to a 2.5-acre development envelope. The proposed Inland Estate would also include designation of a 16.3- acre envelope which would allow agricultural activities such as orchards, row crops, and horse/livestock keeping. Except for fencing and utilities, no buildings, structures or hardscape is permitted within the agricultural envelope. The maximum height of all proposed Inland Estate development is 22 feet, and is designed to be a minimum of 11 feet, 10 inches below the road grade of Highway 101 to maintain public horizon and blue water views over the development.

Total project grading would include approximately 16,890 cubic yards (cy) of cut and approximately 13,280 cy of fill. One blue gum eucalyptus tree would be removed. Landscaping includes native and drought tolerant species including six 36-inch-box oaks and 4.7-acres of ~~citrus orchard.~~ dwarf and/or semi-dwarf orchard trees. Only organic and biodegradable fertilizers and pesticides/herbicides shall be used on-site.

Services and Infrastructure

The Ocean and Inland Estates would be served by a new shared access driveway. The driveway would enter the site via the existing site entrance off of US Highway 101 at the east side of the property and extend west through the property to the Inland Estate. The driveway would then extend from the Inland Estate, over the UPRR (Union Pacific Railroad) tracks via a new bridge, to the Ocean Estate. The driveway would be 1.6 acres in total area.

The bridge would be 215 feet long and 17.25 feet wide and would be supported on either side by bridge embankments. Grading for the bridge embankments on the ocean lot would include approximately 110 cy of cut and 9,100 cy of fill, and for the Inland lot approximately 75 cy of cut and 3,160 cy of fill. Bridge abutments would be supported on a 3:1 slope on the inland lot and a 2:1 slope on the ocean lot. The bridge will be constructed of weathered steel with wood rail cap and wood decking over a poured concrete deck. The applicant has received design approval and approval of a private easement for the bridge from UPRR.

Water would be obtained from the Goleta Water District. The proposed project would include construction of two private water lines, an 8 to 10 inch potable water line and a 4 inch reclaimed water line, extending from the existing Goleta Water District line to serve the Ocean and Inland Estates. Currently, the Goleta Water District service line terminates off-site near the Bacara Resort. ~~The~~ A private water line would be extended through an existing 20 foot easement across the adjacent Gaviota Holdings property (APN 079-200-005) to the project site. The water line would be privately owned and would serve the proposed residential and agricultural development on the ocean and inland lots. The complete water line to serve the Ocean and Inland Estates would be approximately 7,500 feet in length. Sanitary service would be provided through private septic systems as approved by Environmental Health Services. Fire service would be provided by Santa Barbara County Fire.

Public Access Dedications

The project includes a number of offers to dedicate (OTD) easements for both vertical and lateral public access and recreation facilities, contingent on approval of the proposed project as depicted on the Proposed Project and Open Space or Conservation Easement site plan. The proposed OTD includes:

- 1. A segment of the California Coastal Trail along the length of the ocean lot including a loop trail and lookout points. Portions of the Coastal Trail are defined as "Floating Trail" to allow for the best initial trail alignment. Approximately 1,600 linear feet of the total length of the California Coastal Trail on-site would be constructed by the property owner;*

2. Vertical access to the beach from the California Coastal Trail at one of seven potential vertical beach access trail locations;
3. An access road from the existing site entry from Highway 101 to a parking lot for up to 20 vehicles (at one of two potential locations);
4. Pedestrian access from a parking lot and over the Union Pacific Railroad tracks from the inland lot to the Coastal Trail (at one of two potential alignments); and,
5. Access along the length of the property on the beach from the base of the bluffs to the mean high tide line.

~~Proposed easements on the ocean lot include: an easement for a trail network including a loop trail and a portion of the California Coastal Trail bounded by the UPRR on the north, the coastal bluff on the south, Eagle Canyon on the east, and the property line on the west; an easement for an ocean overlook; vertical access to the beach within a "floating" easement extending along the bluff from Drainage 5 to Eagle Canyon; and, a lateral easement along the beach as measured from the base of the bluff to the mean high tide line for the entirety of the property's ocean frontage. Proposed easements on the inland lot include: an easement area that would allow for vertical vehicular access from the existing site entrance at Highway 101 to a future public parking lot (up to 20 spaces); and; pedestrian access from the future parking lot and over the UPRR tracks to the loop and California Coastal Trails on the Coastal Lot.~~

~~In addition, the project would include the construction of The 1,600 lineal feet of California Coastal Trail constructed by the applicant will be located within a 20 foot easement and will be a multi-use trail consisting of a 6 foot wide decomposed granite path with two foot shoulders and low native vegetation plantings. Construction of this portion of the Coastal Trail will be completed concurrently with the installation of utility lines and will be fully completed prior to building permit issuance for the first residence constructed.~~

~~With the exception of 1,600 feet of Coastal Trail, which is proposed to be constructed by the applicant, the exact location of future trails, parking, vertical beach access and access over the UPRR tracks (including UPRR and PUC [Public Utilities Commission] easement and design approval) will be determined at a future date based upon the mutual agreement of the landowner, by the County of Santa Barbara, and the eventual easement holder. The applicant (Brooks Street) will partner with the County of Santa Barbara to negotiate the approval of the public easement with UPRR and the PUC across the UPRR tracks.~~

Open Space or Conservation Easement and Habitat Restoration

~~The project includes a proposed approximately 117 ~~91.0~~ acre Open Space or Conservation Easement extending over both the ocean and inland lots from Eagle Canyon to Drainage #5 on the west as depicted on the ~~Proposed Project and~~ Open Space Conservation Easement site plan (included as Attachment-H to the November 12, 2013 Staff Memorandum to the Planning Commission ~~Attachment H~~). Aside from construction~~

allowed under the Open Space or Conservation Easement Management Condition, ~~the future construction of public access improvements~~, no development would occur within The Easement, in perpetuity. The proposed project includes habitat restoration as identified in the Conceptual Upland and Riparian Mitigation and Monitoring Plan (Dudek, January 2012). This restoration would occur within a 23.56 acre portion of The Easement.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

II. REVSIED MITIGATION MEASURES

A. Cultural Resources

Mitigation measure MM-CR-3a has been revised based upon discussions with the Native American community. MM-CR-3b and MM-CR-3c have been revised to reflect the changes to MM-CR-3a. Generally, MM-CR-3a required completion of a data collection program and definition of site boundaries for CA-SBA-76 in order to collect archaeological data from CA-SBA-76 prior to placement of a fill cap over a portion of the site. However, based upon additional consultation with Native Americans, applicant-proposed changes to the fill-cap design, and further consultation with archeological specialists, MM-CR-3a has been revised to eliminate the requirement for a full data collection program and, instead requires Phase I presence-absence testing to establish the location of the fill cap and buffer. This change minimizes earth and resource disturbance and also allows for establishment of a berm of minimal size.

The applicant has revised the fill cap design to reduce it from 47 feet wide to 20 feet wide and from 4.5 deep to between 1.7 and 3 feet deep.

Local Native Americans have consistently expressed a desire to avoid any additional disturbance to CA-SBA-76, including site disturbance for the purposes of data collection. The proposed revisions to MM-CR-3a reduces site disturbance and addresses Native American concerns pertaining to “secondary disturbance” of the site.

From an archeological/academic perspective, placement of the fill cap, in this specific instance, will not result in removal of the site (CA-SBA-76) from archeological study. The fill cap is expected to cover approximately 5% of the total site, leaving the majority of the site available for further study. In addition, portions of the site have been studied in the past.

30. MM-CR-3a. Prior to placement of the fill cap, an extended Phase I presence-absence testing program shall be implemented at eastern and western margins of CA-SBA-76

along the 20 foot wide utility easement corridor. Testing shall begin 200 feet outside of the currently mapped site boundaries and proceed toward the site until cultural materials are identified. Upon discovery of cultural materials, presence/absence testing shall cease and a 100 foot buffer established outward from the point of discovery. The fill cap referenced in mitigation measure CR-3d shall be placed along the utility easement from 100 feet east to 100 feet west from the newly identified site boundaries. The applicant shall include a notation on the final plans designating the buffer as unbuildable area. The area shall not be identified as an archaeological site on the plans. **Plan Requirements**

Timing. P&D shall receive, review, and approve final plans prior to approval of CDHs. **Monitoring.** All work shall be conducted by a County-qualified archeologist and shall be monitored by a Native American observer. Permit Compliance staff shall spot check fieldwork. ~~a data collection program shall be implemented at CA SBA 76. The data collection shall be preceded by definition of the site's boundaries where the utility line enters and exits the site, in order to determine the appropriate amount of sampling. The number and interval of excavation units shall be determined in consultation with the P&D Archaeologist, based on the results of the boundary testing. Data collection shall include mapping of surface artifacts, collection of functionally or temporally diagnostic tools and debris, and excavation of samples from within the area to be filled, as well as adjacent site areas for comparative purposes. Cultural materials collected from the site shall be processed and analyzed in the laboratory according to standard archaeological procedures. The age of the remains shall be determined using radiocarbon dating and other appropriate procedures; lithic artifacts, faunal remains, and other cultural materials shall be identified and analyzed according to current professional standards. Prior archaeological collections from the site shall be included in the comparative analysis, and the results shall be presented in a technical report following the standards of the California Office of Historic Preservation publication "Archaeological Resource Management Reports: Recommended Content and Format" (<http://ohp.parks.ca.gov/pages/1054/files/armr.pdf>). All work shall be completed by a P&D approved Registered Professional Archaeologist, and a Chumash tribal representative shall monitor all excavation. Upon completion of the work, all artifacts, other cultural remains, records, photographs, and other documentation shall be curated at the Repository for Archaeological and Ethnographic Collections of the University of California, Santa Barbara, or another facility approved by P&D. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant.~~ **Plan Requirements and Timing.** All work shall be completed by a P&D approved Registered Professional Archaeologist and shall be funded by the applicant; a Chumash tribal representative shall monitor all excavation. Upon completion of fieldwork, the archaeologist shall supply a brief report to P&D indicating that the fieldwork has been completed satisfactorily and providing any additional recommendations. All fieldwork shall be completed and the results of the program shall be reviewed and approved by P&D prior to issuance of permits for placement of the fill cap. All recommendations in the report shall be implemented as approved. **Monitoring.** P&D shall review and approve the study and Permit Compliance staff shall ensure that approved recommendations are carried out in the field.

31. **MM-CR-3b.** Prior to initiation of the extended Phase I presence-absence testing program described in mitigation measure MM CR-3a ~~data collection program described in mitigation measure MM CR-4a~~, the applicant shall fund additional consultations with the Santa Ynez Tribal Elders Council and other interested Native American representatives to ensure their concerns are taken into account during the course of the project. **Plan Requirements and Timing.** The additional consultations shall be completed prior to issuance of the first Coastal Development Permit for the project ~~initiation of the data collection program so that descendants may participate in the archaeological fieldwork and subsequent interpretation of the remains, if they so desire~~. Upon completion of consultation, the archaeologist shall supply a brief report to P&D indicating that the work has been completed satisfactorily and providing any additional recommendations. **Monitoring.** P&D shall monitor compliance with this requirement and ensure its results are incorporated into the final cultural resource reports.
32. **MM CR-3c.** The applicant shall fund a P&D-qualified ethnohistorian to prepare an ethnohistory and descendant genealogy of the archaeological site area. **Plan Requirements and Timing.** The ethnohistory and genealogy shall be undertaken prior to issuance of the first Coastal Development Permit for the project ~~initiation of the data collection program so that descendants may participate in the archaeological fieldwork and subsequent interpretation of the remains, if they so desire~~. **Monitoring.** The ethnohistory shall be submitted for review and approval by the P&D Archaeologist. P&D shall monitor compliance with this requirement and ensure its results are incorporated into the final cultural resource reports.

B. Hazardous Materials

Mitigation Measure MM HAZ-1 has been updated to reflect responsibility by the property owner in addition to ARCO and has been updated to reflect that the County Public Health Department is now responsible for review rather than County Fire (the previous responsible-reviewer).

47. **MM HAZ-1.** A Remedial action plan (RAP) shall be implemented by ARCO/BP and the property owner with SBFPD oversight by the County Public Health Department Hazardous Materials Unit, in accordance with all applicable regulatory guidelines. Results of the site assessment shall be used to develop remedial alternatives and ultimately an updated RAP, including mitigation for potential secondary impacts such as dust emissions; disturbance to sensitive ecosystems (e.g., wetlands); and worker health and safety hazards. ~~SBFPD~~ County Public Health Department Hazardous Materials Unit approval of the RAP shall be obtained and the RAP shall be implemented with ~~SBFPD~~ County Public Health Department Hazardous Materials Unit oversight, in accordance with all applicable regulatory guidelines (such as the Health and Safety Code) and action levels. **Plan Requirements and Timing.** Remediation at the proposed project site by ARCO/BP and the property owner shall be completed in accordance with an approved RAP. Site remediation shall occur prior to issuance of a Coastal Development Permit for project development. **Monitoring.** The ~~SBFPD~~ County Public Health Department Hazardous Materials Unit shall review and approve the RAP and monitor and inspect

remediation activities and documentation to ensure compliance with approved plans and applicable guidelines